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HUMAN RIGHTS COMMITTEE

Sixty-third session

SUMMARY RECORD OF THE 1677th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 16 July 1998, at 10 a.m.

Chairperson: Ms. CHANET

later: Mr. BHAGWATI
(Vice-Chairperson)

later: Ms. CHANET
(Chairperson)

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GE.98-16929 (E)

The meeting was called to order at 10.05

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Initial report of Israel (continued) (CCPR/C/81/Add.13)

1. At the invitation of the Chairperson, Mr. Lamdan, Mr. Schoffman, Mr. Galilee, Mr. Bardenstein and Mr. Blass (Israel) took places at the Committee table.

2. Mr. BUERGENTHAL said that daily life in Israel presented the dichotomy of, on the one hand, a vibrant democracy and open society with a highly developed legal system and, on the other, a state of emergency resulting from the Arab-Israeli conflict with all the suffering, abuses and discrimination that such a situation inevitably entailed. The country had clearly attempted to strike a balance between the need to protect human rights and the need to confront terrorism but, as the delegation itself would probably admit, the attempt had not always proved successful.

3. While it could be argued that administrative detention in a state of emergency was not necessarily incompatible with the Covenant, there was a risk, when such detention was extended indefinitely or routinely, that it would supplant due legal process and come to be viewed by the authorities as a means of avoiding a proper trial. Lengthy administration detention was difficult to justify in all but the rarest of cases.

4. He had long been troubled by the destruction of the family homes of individuals who had committed serious terrorist acts, a form of punishment inherited from the time of the United Kingdom Mandate. Although only a small number of houses had been destroyed in recent years, it was nevertheless a form of collective punishment and a barbaric practice that could never be justified.

5. He was also concerned about interrogation methods involving physical pressure. The choice between saving lives and protecting the integrity of prisoners admittedly presented the authorities with an insoluble dilemma but, even if the argument that some moderate physical pressure was not torture was accepted, the risk of its becoming torture in the hands of eager investigators was highly likely and probably unavoidable.

6. While open discussion of government human rights violations was inconceivable in many countries, such issues were freely and vigorously debated in Israel, which had made dramatic progress in protecting human rights under very difficult circumstances. He trusted that the current dialogue would contribute to the ongoing debate on how to balance the need to protect human rights with the need to confront deadly terrorism.

7. Mr. SCHEININ said he noted that the delegation had confirmed the existence of such methods of pressure as violent shaking, restraining in painful positions (which he gathered was equivalent to handcuffing), hooding

and sleep deprivation. The practice of shaking, in particular, had entailed very serious consequences, including brain damage and the death of one detainee. Was there any possibility of that method being abolished?

8. He questioned the logic behind the argument used to justify keeping the full list of methods secret, namely that it should not be allowed to fall into the hands of terrorist organizations. As it seemed clear that such organizations were best placed to know exactly which methods were applied, he maintained his request for a full list. The Committee's function of monitoring compliance with the non-derogable provisions of article 7 of the Covenant was impeded by the secrecy issue and it was obliged to make its assessment on the basis of the delegation's confirmation of the use of certain methods and information from reliable sources on the use of other methods.

9. He asked whether the Israeli Government would consider ratifying the Optional Protocol to the Covenant or making the declaration under article 21 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment so that individuals could file complaints as part of a confidential procedure. Although the Committee had recently amended its rules of procedure to relax the requirement of confidentiality of documentation, individual States parties were entitled to request that confidentiality be maintained.

10. Turning to the question in the list of issues concerning the Supreme Court ruling of 13 November 1997 on Administrative Appeal 10/94, he said he noted that a majority of the Supreme Court panel had taken the view that the holding of persons in administrative detention for the purpose of assisting the authorities in negotiations for the release of Israeli prisoners of war was lawful for reasons of State security. The detention of such persons was thus linked to circumstances beyond their control and unrelated to their conduct.

11. He shared Mr. Pocar's concern about Israel's declaration regarding the existence of a state of emergency and its related derogation from article 9 of the Covenant, particularly in the light of paragraph 8 of the Committee's General Comment No. 24 on reservations, which stated that a general reservation to the right to a fair trial was unacceptable. Certain elements of article 9 were non-derogable although it was not mentioned in the list contained in article 4, paragraph 2. The principle of the prohibition of arbitrary detention and the requirement for effective judicial review could be viewed as non-derogable under customary international law. The Committee had ruled in the recent A v. Australia case that prolonged administrative detention in a situation where the possibility of judicial review was so limited that it failed to provide effective control was a violation of article 9, paragraphs 1 and 4.

12. The case of a person who was detained merely as a "bargaining chip" in negotiations between two States certainly fell into that category. According to paragraph 12 of the Supreme Court ruling, when detention occurred under circumstances in which the detainee served as a "bargaining chip", it constituted grave prejudice to human dignity inasmuch as the detainee was

perceived as a means for the attainment of an objective and not as an objective in and of himself. That statement raised issues under articles 7 and 16, both of which were non-derogable.

13. The delegation claimed that the Supreme Court ruling "spoke for itself" and called for no further comment. In fact, however, it raised a serious issue regarding the status of the Covenant in internal Israeli law. The ruling indicated that international law did not enjoy superior status within municipal law, so that the statement in paragraph 42 of the report that the Covenant was protected by internal legislation or case law was not true in all cases.

14. Ms. EVATT said she understood that rubber bullets could be used under the regulations to disperse violent and non-violent demonstrations, but not at a range of less than 40 yards or where children were in the line of fire. Yet it was reported that 53 people, including 11 children under 13 years of age, had been killed by such bullets over the past 10 years and that 5 children under the age of 16, including eight-year-old Ali Mohammad Jawarish, had been killed in 1997. She wished to know, therefore, how the prohibitions were enforced and what action was taken to punish those responsible and to prevent further misuse of such methods.

15. Turning to paragraph 15 of the list of issues, she said that there was nothing in paragraphs 195 to 197 of the report that would lead one to suspect that a person such as Mordechai Vanunu could be held for as long as 11 years in segregation. She asked whether any others had been held for such lengthy periods and how that kind of detention could be justified under articles 7 and 10 of the Covenant.

16. The delegation of Israel had described various support mechanisms for women that were victims of trafficking agencies but the media asserted that the women concerned were detained and deported if discovered by the authorities. She asked whether there was no mechanism that would allow them to remain in Israel for a certain period in order to file a petition for compensation.

17. Although Israel asserted that it had no control over Lebanese prisoners in Khiam prison, she understood that, when the body of a member of the Israel Defence Forces had recently been returned to Israel, 10 innocent Lebanese nationals held in Israel had been released together with 40 prisoners held in Khiam prison. That suggested to her that Israel exercised some form of control in the area.

18. The sheer numbers of people who had been subjected to the methods of pressure used by the General Security Service indicated that their use extended far beyond what was envisaged in terms of the so-called "ticking bomb". It seemed unlikely that there could be so many bombs ticking away for weeks at a time, but only from Monday to Friday.

19. Mr. LALLAH, having associated himself with the questions asked by Mr. Buergenthal and with Mr. Scheinin's argument concerning administrative detention and methods of interrogation, asked whether the Government of Israel intended to introduce an amendment to the Prevention of Terrorism Ordinance

that was identical with section 9 of the General Security Service Bill, a section that had been omitted before the bill's submission to the Knesset, the effect of which would be to legitimize current interrogation methods that were incompatible with the Covenant.

20. Mr. ZAKHIA said that, pursuant to the Fourth Geneva Convention and in the virtually unanimous opinion of international bodies, an occupying Power bore full responsibility for protecting the human rights recognized in the Covenant in the territories it occupied. Israel, which exercised de facto control in the occupied part of Lebanon, remained indifferent to or even encouraged violations of articles 2, 7, 9 and 14 in Khiam prison, where dozens of people had been detained for years without charge or trial.

21. They had no access to lawyers and, according to a statement by General Lahad, family visits and visits by the International Committee of the Red Cross (ICRC) had been suspended at the request of the Israeli authorities since September 1997. Israel's responsibility had been recognized by the European Parliament in a resolution adopted on 23 October 1997 and by the Commission on Human Rights in its resolution 1997/55 which called on Israel to release all detainees in Khiam detention centre immediately and to allow visits by the ICRC.

22. Mr. PRADO VALLEJO said that the Committee had received reports of systematic violations of human rights by the Israel Defence Forces in the occupied territories, including torture and extrajudicial killings. The State party was obliged under the Covenant to investigate those reports, to compensate the victims and to bring the perpetrators to justice. The Government of Israel should submit a supplementary report to the Committee on the implementation of the Covenant in the occupied territories.

23. Mr. BHAGWATI asked the delegation of Israel to comment on the reports of over 1,200 extrajudicial killings in recent years, including 247 of children under 17 years of age. He wished to know what steps had been taken to eliminate such atrocities and to compensate the victims.

24. Mr. LAMDAN (Israel) said that Israel was not an occupying Power in southern Lebanon. For the past 15 years, towns in northern Israel had been exposed to ongoing attacks and bombardment by Hezbollah forces based in southern Lebanon. Israeli forces were present in the area purely for purposes of self-defence and because, the Government of Lebanon had been unable to exercise full control over its sovereign territory. Israel had no effective control or jurisdiction over the people of southern Lebanon. Such control was exercised by General Lahad, the head of the Southern Lebanese Army, who was responsible for the prisons in the area. He was, however, also responsive to Israeli requests - hence the apparent paradox referred to by Ms. Evatt.

25. Israel had accepted Security Council resolution 425 (1978) and was ready to negotiate terms for the removal of its soldiers from southern Lebanon. That was not a resolution which called for unilateral action nor was it self-implementing. It required talks between the sides to guarantee that Israel would not continue to suffer attacks from southern Lebanon.

26. Prisoners at Khiam were visited regularly by ICRC representatives. There had recently been a lapse of several months pending the return by the Lebanese Government of the remains of an Israeli soldier killed in Lebanon, but visits had been resumed in recent weeks.

27. Mr. SCHOFFMAN (Israel) said that Israel was troubled by the dichotomy mentioned by Mr. Buergenthal which was contrary to the interests of both Palestinians and Israelis. As more powers were transferred to the Palestinian Authority, some of the security problems and legal and human rights issues in the occupied territories would be resolved. The minimum standards provided for in the Geneva Convention had been raised in the occupied territories in order to bring them somewhat more into line with those prevailing in Israel.

28. In Israel itself, administrative detention was not used as a means of avoiding due legal process and there were no Israelis in administrative detention. A criminal trial was not an option in the case of the Lebanese detainees referred to in the Supreme Court ruling. In the occupied territories, the security situation had recently become more difficult for Israel because of the virtual impossibility of obtaining intelligence in areas controlled by the Palestinian Authority. The need to protect sources was therefore all the greater, but the number of administrative detainees had nevertheless declined to 86.

29. Mr. Scheinin's request for ratification of the Optional Protocol would be conveyed to the competent Israeli authorities. However, remedies already existed within the Israeli legal system, including on the matter of interrogations.

30. Concerning the Supreme Court ruling on Lebanese prisoners, there was very little he could add to the arguments adduced by the Court. The case was currently under review, and he understood it was to receive a further hearing before an expanded bench.

31. In response to the question asked by Mr. Lallah, he said the General Security Service Bill had not yet been enacted. However, the question of the special interrogation methods used by the GSS was currently under discussion in the Attorney-General's Office, although no final decision had yet been reached. Israel's dilemma was that, if such a law was enacted, it was likely to be seen as legalizing torture, despite the fact that it stated specifically that no interrogation methods which constituted torture or cruel, inhuman or degrading treatment could be used. Although from the legal viewpoint the new law would in fact give more protection to the individual, from the public relations viewpoint it unfortunately gave a bad impression. That dilemma had still not been resolved.

32. In reply to Mr. Prado Vallejo's question, he recalled that he had explained the previous day that, as far as the occupied territories were concerned, Israel had committed itself to the humanitarian principles enshrined in the Geneva Conventions. The Covenant and the Geneva Conventions gave different answers to the same questions, and it was therefore not possible to apply the provisions of both instruments. As he had stated earlier, Israel had introduced various safeguards to protect human rights in the territories.

33. Mr. BLASS (Israel), replying to the point raised by Mr. Scheinin, said he had not intended to imply that painful methods of restraint were authorized in Israel. In fact, handcuffing techniques had been recently changed so as not to cause pain to the person detained. In the case of the detainee who had died after having been subjected to shaking, the pathologist's report had revealed a number of other very specific factors which could also have contributed to the death. The case was thus in no way typical.

34. In reply to the question as to why interrogation methods were kept secret, he said that different methods were used in different cases, and secrecy assisted the security services when carrying out interrogations. Concerning the point raised by Ms. Evatt, there were specific guidelines governing the use of rubber bullets by the military. They could not be used in peaceful demonstrations, but only in situations where the lives of soldiers were being endangered by the use of weapons such as Molotov cocktails or slingshots. In cases where the guidelines were violated, there would be an investigation, which could lead to the prosecution of those responsible. Victims were entitled to sue for compensation in the civil courts.

35. Replying to Mr. Bhagwati, he said that there were no extrajudicial executions in Israel. The figures he had quoted referred to persons killed over a period of 10 years in the course of riots which had endangered the lives of soldiers.

36. Mr. LAMDAN (Israel) said that he had taken note of the concerns raised by Mr. Scheinin concerning Israel's reservation in respect of article 9, and would ensure that they were transmitted to the appropriate authorities for consideration.

37. Israel, like other countries, wished to eradicate the trafficking in women, and procurers had been indicted and sentenced for that offence. Israel would certainly not stand in the way of anyone wishing to press charges in that respect or to seek civil remedies in the courts. He was not aware of any case in which a person had specifically asked to remain in the country in order to be entitled to seek legal remedies: in fact it was not necessary to be physically present in the country in order to press a claim for civil damages.

38. Mr. Bhagwati Vice-Chairperson, took the Chair.

39. Mr. BLASS (Israel), replying to Ms. Evatts question on the isolation of prisoners, said that the Vanunu case was a special one in that his continued refusal to refrain from passing on State secrets constituted a threat to national security. However, he was no longer held in segregation. Isolation of prisoners was resorted to only in very rare cases, e.g. to protect other prisoners from violence.

40. Citizens and residents of Israel, including the residents of East Jerusalem, had complete freedom of movement within the country and were also entitled to enter the West Bank. They had however, to obtain a special permit in order to enter the Palestinian part of the Gaza Strip. Palestinians

likewise required a special permit to enter Israel or to move from one area to another, so that security checks could be made: some 50,000 Palestinians crossed the border daily to work in Israel.

41. Israel was aware of the difficulties caused by those restrictions and had made special arrangements to facilitate the movement of persons and goods. Palestinian traders were given special entry permits, as were Palestinians studying in Israeli schools and colleges or receiving treatment in Israeli hospitals, as well as the relatives of Palestinian prisoners held in Israeli prisons.

42. Mr. LAMDAN (Israel) pointed out that there was no presumption of a right to freedom of movement into or out of Israel. Israel was a sovereign State, and was entitled to regulate the movement of persons across its borders in the same way as other countries. It was true that there were currently some 50,000 Palestinians working in Israel, with official permits, but a recent report by the International Labour Organization (ILO) indicated that there were at least another 50,000 working there without permits.

43. Mr. SCHOFFMAN (Israel) said that, while citizenship accompanied a person wherever he went, residency was a de facto situation. Persons living in Jerusalem at the time of the 1967 census had been considered residents of Israel, and given the opportunity to apply for citizenship. For those who had done so, the situation was exactly the same as that of any other Israeli citizen. The number of revocations of residency permits in Jerusalem had indeed increased since 1991, and particularly from 1995. Before that, there had been no routine checks on the place of domicile of Palestinian residents who had not obtained Israeli citizenship. Following those checks, a few hundred people had been denied residency status.

44. The case was a difficult one because of the unusual situation of the difference in status between Jerusalem and the neighbouring areas under the control of the Palestinian Authority, and it was currently before the Supreme Court awaiting solution. Residents of the occupied territories were registered with the Palestinian Authority, voted in Palestinian elections, and received services from the Authority. Children born to residents of Jerusalem obtained the status of their parents.

45. As was explained in the report, under the Law of Return Israeli citizenship was granted to Jews, their spouses, children and grandchildren. While Jews did not need to apply for naturalization, non-Jews seeking to be naturalized had to follow the procedures provided for under the Nationality Law, which were similar to those of other countries. Jews who preferred not to apply for Israeli citizenship would be granted permanent residency status, and would have the right to vote in national elections.

46. Some 97 per cent of the persons resident in the occupied territories were granted building permits by the Palestinian Authority, which was also responsible for the grant of housing loans and for the provision of social welfare.

47. On the question of deportation, he said that persons deported because they had entered Israel illegally had three days in which to appeal to the

Ministry of the Interior and, if that appeal were rejected, the right to appeal to the Supreme Court. In practice, the Court usually issued a temporary restraining order to enable the case to be heard before the deportation date. Deportation of residents or citizens of Israel was not permitted under Israeli law, but persons from the occupied territories could face deportation, although there had been no such cases since 1992. Persons under a deportation order had the right to appeal.

48. Mr. BARDENSTEIN (Israel) said that the destruction of houses as a counter-terrorist measure had been authorized by Regulation 119 of the Defence (Emergency) Regulations enacted under the United Kingdom Mandate. During the years of the intifada, Israel had been careful to restrict the use of the measure to cases where there was clear evidence that the occupier was involved in acts of violence endangering human life. Before a house was destroyed, its occupants were given the opportunity to appeal to the military authorities and, if that appeal were rejected, had the right to petition the Supreme Court. Only if the petition was rejected would the house be destroyed. He pointed out that the measure was often applied only to the room or apartment where the terrorist lived, and not to the entire house. The measure was resorted to in extreme cases only, and in fact had not been applied since 1997.

49. Mr. SCHOFFMAN (Israel) said that, in cases of administrative detention, evidence could not be revealed for the reasons he had explained earlier. Such cases required immediate review at a very high level, with an appeal to the Supreme Court. The evidence would be available to the judge, who could put questions to the government representative. In criminal trials, on the other hand, the court could not hear secret evidence, and convictions would not be based on such evidence.

50. The Public Defender's Office was a relatively new institution which would soon be in operation throughout the country. While it did not operate in the occupied territories, a resident of the territories on trial in Israel would be entitled to avail himself of its services.

51. Concerning the question in paragraph 27 of the final list of issues, he stated that homosexual activities had been decriminalized in Israel some years previously. Discrimination against homosexuals in the workplace was expressly prohibited under the Equal Employment Opportunities Law, and other forms of discrimination were prohibited under the Basic Law on Human Dignity and Liberty. The Supreme Court had ruled that a private employer could not deny benefits to homosexual partners. Homosexuals could serve in the army and be promoted to the most senior posts. In fact, Israel's policies in that respect were among the most liberal in the world.

52. Legislation on conversion was still in draft form, and discussions were continuing. In Israel, conversion to Judaism automatically conferred citizenship, and thus had to be governed by an authorized and recognized procedure overseen by the Rabbinical Courts. The proposed legislation would apply only to conversions within Israel.

53. The Government's programme to establish civil burial sites around the country was in the course of implementation, and one site was already in

operation. In addition to the sites planned under the programme, civil burials could also be carried out in kibbutzim and collective settlements, as had been the practice for many years.

54. Addressing the question in paragraph 29, he said that there were boards of trustees in five Israeli cities managing *wakf* properties, and arrangements were currently being made for those boards to be handed over to members of the Muslim community. Concerning the question in paragraph 30, he said that newspaper licences in the occupied territories were issued by the Palestinian Authority under the Interim Agreement.

55. Addressing paragraph 31 and the "special circumstances" under which a girl of 16 could marry, he said that the expression generally meant that the girl was pregnant. As for the age from which men could marry under the various religious laws, he said that it was 13 years of age under Jewish law, but child marriages for males were unusual. He had been informed that, under Muslim (Ottoman) law, men could marry as from 18 years of age but that, under the Sharia, men could marry as early as age 12 with the approval of the religious court (Kadi). That, too, was very unusual. The prohibition of child marriages was enforced in all communities by the religious courts and the official religious functionaries.

56. Regarding the performance of illegal marriage ceremonies within the religious communities, he said it was quite possible that they occurred, but they were not condoned by the State or by the religious courts. As to whether international standards on the age of majority were being taken into account in the review of the minimum marriageable age for men and women, he said that the proposal currently before the Knesset simply stated that the same standards would be applied to men and women alike. Since the Committee had raised the issue, however, he would alert the authorities to the need to take those standards into account. On the question whether marriages performed without the consent of the woman were recognized as valid, he said the proxy marriages permitted under Sharia law were voidable if a woman or her representative requested such annulment before the Sharia court.

57. In connection with the question in paragraph 32, he recalled Israel's reservation to the Covenant in connection with personal status and the competence of the religious courts. The secular legislature had attempted to intervene in certain matters, such as the practice whereby a Jewish woman was prohibited from remarrying if her husband did not accord her a divorce. Women sometimes waited years and years and religious courts scoured the globe for husbands who had disappeared without freeing their wives to remarry.

58. Recalcitrant husbands could be imprisoned or denied certain privileges and rights by the religious court pending their acquiescence to a divorce. That certainly raised issues concerning the husband's rights but, on the other hand, liberation from all restrictions was entirely within his control: he had only to consent to the divorce. The process could also operate in the opposite direction: a woman could be imprisoned for refusing to accept a divorce.

59. Concerning the question in paragraph 33 and discrimination against men and women who did not belong to a religious group, he said a bill to permit

marriage between such people was currently before the Knesset. As things stood, such people resorted to marriage outside the country and the subsequent registration of the marriage by the Ministry of the Interior. Proxy marriages were also performed in countries that allowed the procedure. People who did not wish to marry under religious law could also enter into a prenuptial contract, following which their benefits from the State would to all intents and purposes be the same as those of married couples.

60. The attitude of the religious courts to the remarriage of persons married or divorced overseas depended on a great many complex factors including the nature of the marriage or divorce and the rules of the specific religious court involved. The effect of marriages not recognized under religious law on the rights of the children also varied. In Judaism, the children of unmarried parents were not deemed illegitimate: they enjoyed exactly the same rights as children of conjugal unions. Under Sharia law, a child of unmarried parents was considered the child of the mother and had a looser legal relationship with the father. A sort of civil fathership had, however, evolved under Israeli law to ensure that a man who, under religious law did not have to provide for his child, would actually do so. He had no information on the approach used by the various Christian religious courts.

61. Concerning the residence and citizenship rights of foreign non-Jewish spouses, he said that the Ministry of the Interior's current policy - which was being challenged in the courts by individuals and NGOs - was that there was no difference between Jewish and non-Jewish Israeli citizens in respect of the status of non-Jewish spouses. Such spouses did not qualify for citizenship rights under the Law of Return, but they could apply for temporary residence permits and, in time, acquire permanent resident status or be naturalized. The petition currently before the courts would give the non-Jewish spouse of a Jew the right to claim Israeli citizenship under the Law of Return.

62. As for the residence rights and procedures applied to the spouse of an Israeli citizen from the occupied territories, the laws were the same as for foreign spouses of Jewish citizens - initially residence and work permits were accorded, with naturalization being granted subsequently. There was invariably a security check, however, on anyone from the occupied territories who applied to reside in Israel. On the registration of Arab-Israeli children, he pointed out that children inherited the citizenship status of their parents: identical procedures applied to both Arab and Jewish citizens of Israel. Permanent residency status was accorded to children of Israeli Arabs and Jews on the same basis: that of the de facto residence of the parents in Israel.

63. Referring to the question in paragraph 35, he said that all citizens and residents domiciled in Israel were covered by the National Insurance Institute (NII). The responsibility for social welfare having been passed to the Palestinian Authority in the occupied territories, there was no coverage by the NII there. People who came to work in Israel, from the occupied territories or elsewhere, received certain benefits from the NII such as disability compensation, protection against the bankruptcy of the employer and

birth benefits if the wife gave birth in Israel. Children of foreign workers did not normally receive benefits from the NII, but they were educated in State-funded schools.

64. Ms. Chanet resumed the Chair.

65. Mr. BARDENSTEIN (Israel) said, with reference to paragraph 36, that racially motivated violence was unfortunately a part of life in Israel. It was an outgrowth of the conflict and the fear and mistrust it had engendered. The response to such violence had to take place at all levels, from individual parents encouraging their children to play with children of other races to institutional arrangements and negotiated agreements.

66. Many programmes were in place in the areas of education and public information. The civics curriculum for high school students in State schools covered tolerance, democratic values and human rights. A report commissioned two years previously had recommended the expansion of all educational devices, not just instruction in schools, to inculcate those values. Several initiatives had been taken to implement those recommendations, including the staging of meetings between pupils in Arab and Jewish high schools with the objective of breaking down emotional and psychological barriers and encouraging interaction. A number of programmes were likewise being implemented outside the State school system by NGOs. Only educational, social and diplomatic solutions would eradicate or attenuate the phenomenon of racist violence.

67. The CHAIRPERSON invited the members of the Committee to ask any supplementary questions they might have on the last part of the final list of issues.

68. Ms. EVATT said she had been given to understand that, in order to acquire the right to reside in the occupied territories, an Arab Israeli woman who married a resident of the territories had to sign a form relinquishing her Israeli citizenship. She was thereby prevented from returning to Israel and was rendered stateless. Did the same rule apply to Jews who married and went to live in the occupied territories?

69. She would also like clarification about the status of Palestinian children born in East Jerusalem who had one parent from the West Bank. As she understood it, even if the other parent was a long-time resident of East Jerusalem, the child could not be registered there and had no right to receive health insurance.

70. On family reunion, she had heard that, particularly in respect of documentation required and waiting periods imposed, it was much easier for the foreign spouse of a Jewish citizen to gain permanent residence status and citizenship rights in Israel than for the foreign spouse of an Arab citizen, especially when that spouse was from the occupied territories. She would like the delegation of Israel to comment on that point.

71. Finally, she was delighted to hear that a bill concerning civil marriage was under consideration and hoped it would be approved, since it was needed for the implementation of obligations under article 3 of the Covenant.

72. Mr. ANDO said he agreed with Mr. Lallah about the sweeping nature of Israel's reservation concerning personal status. The reservation appeared to be necessitated by the strange mixture in Israel of the State and traditional religion. The scope of the reservation's application was ambiguous, however: the specific article or articles to which it applied had not been made clear. He therefore considered it to be impermissible.

73. In connection with freedom of expression, the report cited legislation dating from the colonial period (Press Ordinance, 1933, Defence (Emergency) Regulations, 1945 and Cinematic Films Ordinance, 1927). The time had surely come for Israel to review the basic principles behind that legislation: as an independent State, it had sooner or later to cast off the legacy of the colonial past.

74. Finally, he wished to know whether the expression "proximate certainty" used in paragraph 634 (a) of the report was equivalent to the "near" certainty referred to elsewhere.

75. Ms. GAITAN DE POMBO said that Israel had submitted a voluminous initial report which gave a good idea of the context in which the Covenant was being implemented. She shared the concern of other Committee members, however, about the application of the Covenant in the occupied territories and the conditions of detention and would like more specific information on the difficulties involved in the coexistence of the various religious communities. In particular, she wished to know what specific steps were being taken to facilitate that coexistence and how the persistent tensions connected with freedom of thought, conscience and religion were being handled.

76. Mr. KLEIN said it was acknowledged in paragraph 592 of the report that, under the Defence (Emergency) Regulations, it was not always necessary to give reasons for revoking a newspaper's licence to publish and that judicial examination of such decisions was, consequently, restricted. Paragraph 595 indicated that, under the same Regulations, the newspapers had agreed to self-censorship in military matters. While Israel had not specifically derogated from article 19 on freedom of expression, it would appear that its legislation failed to meet the criteria set out in that article. He hoped that the new Basic Law on Freedom of Expression and Association would be enacted soon, and he would like some information concerning its status. Lastly, he wished to know whether any attempts were being made to protect the confidentiality of journalists' sources.

77. Ms. MEDINA QUIROGA asked whether it was true that restrictions were placed on the movement of Palestinians between the West Bank and the Gaza Strip or between the West Bank and Jerusalem even where such movement did not involve entry into Israeli territory proper. With regard to article 24, she found it surprising that the Israeli Government was not doing more to prevent child marriages and ritual female genital surgery. More positive action than mere prohibition of such practices was surely called for. Lastly, she remarked that imprisoning a man who refused to consent to be divorced appeared to be a blatant violation of article 9.

78. Mr. BHAGWATI said he associated himself with the previous speaker's question concerning the movement of Palestinians between the West Bank and

Gaza Strip on the one hand, and the West Bank and East Jerusalem, on the other. He would also like some information about the reported demolition of Arab-owned houses in East Jerusalem and Hebron.

79. Mr. YALDEN asked why, given the assurances of freedom from discrimination on religious grounds contained in Israel's Declaration of Independence (paragraph 824 of the report), it was considered necessary to identify people in the national register and on their identity cards in terms of religion and nationality.

80. Mr. ZAKHIA, referring to the laws governing divorce, asked whether the right to seek a divorce was reserved exclusively for the husband and whether a husband was obliged to seek a divorce if his wife had failed to conceive within 10 years of the date of marriage.

81. Mr. BLASS (Israel) said that, in view of the distance separating the West Bank from the Gaza Strip, restrictions had been placed on the movement of Palestinians travelling in either direction in the interests of security and in the light of much unfortunate experience over the past few years. In the case of Palestinians travelling from the West Bank to Jerusalem, it was also necessary to make sure that no one was carrying weapons or explosives. An interim agreement on the subject had been signed with the Palestinian Authority and negotiations on future arrangements were continuing.

82. Mr. SCHOFFMAN (Israel), replying to the question about the citizenship of Israel-born children only one of whose parents was an Israeli citizen, said that, where the two parents were resident in Israel, there was no problem in terms of the child's national insurance entitlement. If only one of the parents was resident in Israel, the National Insurance Institute had to check that the child was indeed domiciled in Israel, a process that sometimes involved delays. However, the application for benefits could be made during pregnancy, in which case the child would, if entitled, receive the benefits at birth.

83. Replying to the question about the citizenship status of the spouse of an Arab Israeli, he said that any delays were a matter of bureaucracy rather than of discrimination on religious grounds; indeed, a petition was currently before the Supreme Court complaining of the slow processing of cases involving the spouses of Jewish Israelis. The procedures involved were designed to prevent citizenship being claimed on the basis of fictitious marriages. It might be true that the process was more drawn out in the Gaza Strip, but basically the situation was the same for both Jewish and Arab Israelis.

84. Replying to various questions and comments concerning Israel's religious divorce laws, he said that there was no possibility of changing the law at the moment. A private member's bill was currently before the Knesset and a decision would be taken in due course. Until then, the divorce laws and, consequently, Israel's reservation to the Covenant in matters of personal status, would remain in force.

85. In reply to the questions concerning the Mandatory legislation governing the freedom of the press, he said that there were moves in the direction of abolishing the requirement for a licence to operate a newspaper. Licences

were withheld only in a very small number of cases where it was proved that the newspaper was under the control of a terrorist organization. The question of protection of journalists' sources was dealt with in paragraph 610 of the report; the Government bill referred to in paragraph 611 was currently in the final stage of consideration by the Knesset. As for self-censorship in military matters, it applied, for example, to the decision not to publish the names of soldiers who had been killed before their families had been informed. Under the new agreement reached with the Editors' Committee, that Committee could appeal against a court decision but the Censor could not appeal if a court ruling went against him.

86. In reply to Ms. Medina Quiroga's comment about child marriage and female circumcision, he said that those practices were certainly not condoned by the law but there was a limit to the extent to which the State could enter the private sphere. A husband was imprisoned if he refused to consent to a divorce because, by so refusing, he placed himself in a situation of contempt of court. In such situations, the rights of the husband had to be balanced against those of the wife.

87. Mr. BLASS (Israel) said that an Arab Israeli woman who married a Palestinian from the occupied territories no longer had to relinquish her citizenship. Replying to Mr. Bhagwati's question concerning the demolition of houses in East Jerusalem and Hebron, he said that such decisions were taken on the basis of town-planning considerations. In cases where houses were built without planning permission, the authorities were sometimes obliged to enforce the planning laws. However, retention permission was given wherever possible, and the owner could take the matter to court before a demolition was carried out. In fact, cases of demolition of houses were infrequent and thousands of houses built without housing permission in East Jerusalem in recent years had not been destroyed.

88. Mr. SCHOFFMAN (Israel), replying to Mr. Yalden's question concerning the indication of nationality on identity cards, said that the measure had once been thought necessary for security reasons and had continued largely as a result of inertia. A bill to repeal it was before the Knesset and a decision was awaited shortly. Replying to Mr. Zakhia, he said that the consent of both husband and wife was required for a divorce; a wife was not obliged to consent to divorce if the marriage had remained childless for 10 years. Lastly, replying to a supplementary question by Ms. Evatt, he said that the domicile of children born in East Jerusalem was established on the basis of where the child actually resided and went to school.

89. The CHAIRPERSON said that the issue at the centre of the discussion had been the need to incorporate the Covenant into the domestic law of Israel and to extend its provisions to all the persons under Israeli jurisdiction, including the population of the occupied territories. Speaking as a member of the Committee, she said she could not accept arguments based on an alleged contradiction between certain provisions of the Covenant and those of the Geneva Conventions.

90. The second issue of central importance was that of Israel's reservations to the Covenant. It was clear that various measures adopted under the state of emergency were inconsistent with the object and purpose of the Covenant;

that was true, in particular, of certain methods of interrogation employed, which, if they did not amount to torture, certainly constituted ill-treatment within the meaning of article 7. It was also true of arbitrary administrative detention. Similarly, the reservation concerning the status of women within the family constituted a very serious derogation from the principle of equality and non-discrimination upheld by the Covenant.

91. She hoped that the Committee's comments and concluding observations would be duly taken into consideration by the Israeli authorities and that the second periodic report would reflect a situation more closely in keeping with the provisions of the Covenant.

92. Mr. LAMDAN (Israel), having thanked the Chairperson and members of the Committee for the positive and constructive spirit they had shown in their consideration of his country's initial report, said that his delegation had listened very carefully to the numerous questions asked and comments made and would report them to the appropriate authorities which would give them the most serious consideration. He hoped that the explanations provided by the delegation had convinced the Committee that respect for human rights formed an integral part of the Jewish religion, the first to proclaim that man was created in the image of God.

93. In considering Israel's record in the field of civil and political rights, it was necessary to take account of its history of 50 years of conflict with most of its neighbours and its ongoing struggle against terrorist individuals and groups deep inside Israeli territory. To try to preserve a democratic and open society while at the same time maintaining security was not an easy task and agonizing choices had to be made.

94. It was to be hoped that the political process in which Israel was currently engaged would lead to permanent peace with those of its neighbours with which it was still at war, thus creating a climate more conducive to resolving many of the problems raised during the discussion.

The meeting rose at 1.05 p.m.